

## **Manual of European Environmental Policy**

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# International conventions and cooperation: Water

## Introduction

The purpose of this section is to provide a brief summary of the international Conventions relevant to the EU with regard to the protection of freshwaters in Europe and which may relate to EU legislation. It does not provide detailed implementation information, for which the reader is referred to The Convention websites. International Conventions for freshwater protection in Europe began with regional agreements for the protection of individual river basins (particularly the Rhine). Such agreements often built on earlier basin agreements regarding free navigation which date back, in some cases, to the early 19th century. The lessons learnt from the specific river basin initiatives led to the adoption of The Convention on Transboundary Water Courses and Lakes in 1992.

There has been significant interaction between action at Community level and within the international Conventions. The Conventions formed some of the earliest agreements for tackling pollution and, indeed, proposals within the Rhine Convention regarding pollution control and concerns over unfair competition for cities not in the catchment was a major driver for the development of the Dangerous Substances Directive 76/464/EEC (consolidated [2006/11/EC](#)). The Conventions also stimulated arrangements for integrating water management and The Convention on Transboundary Water Courses and Lakes introduced a broader ecological approach to objective setting. Within the EU these aspects are now incorporated in the Water Framework Directive [2000/60/EC](#). However, it is important to note that the international Conventions form important platforms for the development and adoption of cooperative action, such as on River Basin Management Plans under Directive 2000/60/EC.

## Convention on the Protection of the Rhine (Rhine Convention)

|  |  |
|--|--|
| Place of signature                     | Bern   |
| Date of signature                      | 12.04.1999   |
| Date of entry into force               | 01.01.2003   |
| Secretariat                            | International Commission for the Protection of the Rhine |
| Website                                | <a href="http://www.iksr.org/">http://www.iksr.org/</a>  |
| Date of Council Decision on conclusion | 07.11.2000   |
| Date of entry into force for EC        | 01.01.2003   |
| Reference of Council Decision          | <a href="#">2000/706/EC</a> (OJ L289 16.11.2000)         |

The predecessor of this Convention was drawn up in 1976 by the riparian states (Switzerland, France, Federal Republic of Germany, Luxembourg, the Netherlands) to protect the Rhine against chemical pollution with the object of improving the standards of water for various uses. The European Community also became a party. The Convention provided for strict

control of discharges of substances to the Rhine. Annex I substances were to be controlled in accordance with limit values to be set by the International Commission for the Protection of the Rhine against Pollution (ICPR). Annex II substances were to be controlled by governments under the supervision of the International Commission. These Annexes were similar but not identical to the lists of Directive 76/464/EEC, consolidated as Directive 2006/11/EC. A comprehensive improvement programme – the Rhine Action Programme – was adopted at a Ministerial conference in Strasbourg in 1987, with specific targets to be reached by 2000 for drinking water, the ecosystem and sediments.

In order to improve the level of protection of the Rhine, a new Convention was approved in 1998. This takes into account additional issues such as preserving, improving and stabilizing the ecosystem, promoting the economic and effective use of water and ensuring the natural functioning of running waterways. All decisions, recommendations, limit values and other arrangements adopted on the basis of the 1976 Convention are to remain applicable. The new Convention was signed by the EC and all other contracting parties in 1999, and entered into force in 2003. Upon entry into force, the 1976 Convention was repealed.

In 1998, it was also agreed that a new ‘Programme for Sustainable Development of the Rhine’ should be drawn up to continue and strengthen beyond 2000, the work being carried out under the original Rhine Action Programme. A new programme – ‘Rhine 2020 – Programme for Sustainable Development of the Rhine’ was subsequently adopted in 2001. Rhine 2020 is stated to support the implementation of the Water Framework Directive 2000/60/EC and will contribute to achieving a ‘good chemical and ecological state’ in the Rhine watershed. The programme also enhances the implementation of the Floods Directive [2007/60/EC](http://www.unece.org/env/water/welcome.html).

## **Convention on the Protection and Use of Transboundary Watercourses and International Lakes (UNECE Water Convention)**

|  |   |
|--|---|
| Place of signature                     | Helsinki  |
| Date of signature                      | 17.03.1992  |
| Date of entry into force               | 06.10.1996  |
| Secretariat                            | UN Economic Commission for Europe (UNECE)<br>Environment and Human Settlements Divisions              |
| Website                                | <a href="http://www.unece.org/env/water/welcome.html">http://www.unece.org/env/water/welcome.html</a> |
| Date of Council Decision on conclusion | 24.07.1995  |
| Date of entry into force in EC         | 06.10.1996  |
| Reference of Council Decision          | <a href="http://www.unece.org/env/water/welcome.html">95/308/EC</a> (OJ L186 05.08.1995)              |

## **Protocol on Water and Health**

|                          |            |
|--------------------------|------------|
| Place of signature       | London     |
| Date of signature        | 17.06.1999 |
| Date of entry into force | 04.08.2005 |

# **Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters**

|                          |                  |
|--------------------------|------------------|
| Place of signature       | Kiev             |
| Date of signature        | 21.05.2003       |
| Date of entry into force | Not yet in force |

The purpose of The Convention, drawn up by the United Nations Economic Commission for Europe (UNECE), is to establish a framework for bilateral or multilateral cooperation to protect the aquatic environment, to prevent and control the pollution of transboundary watercourses and to ensure the rational use of water resources in the UNECE member countries. The Convention entered into force on 6 October 1996. Much of the implementation of The Convention draws on the guidance, etc., developed under the Water Framework Directive [2000/60/EC](#) on which Directive The Convention had a significant influence in its development.

A Protocol to The Convention on water and health was opened for signature at the Third Ministerial Conference on Environment and Health in London in June 1999. It seeks to strengthen national and international action aimed at the protection and ecologically sound management of surface, ground and drinking waters. It requires parties to take appropriate measures in the provision of safe drinking water and adequate sanitation, in order to prevent, control and reduce water-related disease and protect water resources used as sources of drinking water. It also requires parties to carry out monitoring and reporting of water-related diseases should they occur. The Protocol was drawn up under the joint auspices of the WHO Regional Office for Europe and UNECE. It was immediately signed by 35 countries, but not by the European Community. The Protocol entered into force on 4 August 2005 and has been ratified by 14 EU Member States. The European Community delegation, however, stated at the First Meeting of the Parties of the Protocol in January 2007 that the European Commission had no intention to propose that the Protocol be ratified by the European Community or to provide financial contributions under the Protocol.

A further protocol to this Convention and The Convention on the Transboundary Effects of Industrial Accidents was opened for signature in Kiev in 2003. It was signed by 17 EU Member States, but not by the European Community itself. It covers liability and compensation for damage to transboundary waters resulting from industrial accidents, and was negotiated in the wake of the cyanide spill from a gold mine in northern Romania, which caused severe transboundary pollution of the Tisza river and Danube basin. The Protocol has not yet entered into force. So far, it has been ratified only by a single signatory (Hungary).

## **Agreement between the Federal Republic of Germany and the EEC, on the one hand, and the Republic of Austria, on the other, on Cooperation on Management of Water Resources in the Danube Basin**

|  |  |
|--|--|
| Place of signature                     | Regensburg                                     |
| Date of signature                      | 01.12.1987                                     |
| Date of entry into force               | 01.03.1991                                     |
| Date of Council Decision on conclusion | 22.03.1990                                     |
| Date of entry into force in EC         | 01.03.1991                                     |
| Reference of Council Decision          | <a href="#">90/160/EEC</a> (OJ L90 05.04.1990) |

The Agreement, signed in December 1987, before Austria became a Member State of the EU, covers joint measures to protect the river and groundwater resources against pollution, Regulation of the river's flow, hydro-electricity generation and the coordination of emergency systems. A Standing Commission on Management of Water Resources is set up. The Agreement only applies to a part of the Danube Basin. In 1994 a more comprehensive Convention, covering the whole basin, was concluded by all riparian states and the European Community (see below).

## **Convention on the Cooperation for the protection and sustainable use of the Danube (Danube River Protection Convention)**

|  |  |
|--|--|
| Place of signature                     | Sofia  |
| Date of signature                      | 29.06.1994                                     |
| Date of entry into force               | 22.10.1998                                     |
| Date of Council Decision on conclusion | 24.11.1997                                     |
| Date of entry into force for EC        | 22.10.1998                                     |
| Reference of Council Decision          | <a href="#">97/825/EC</a> (OJ L342 12.12.1997) |

The Convention, signed by the European Community in June 1994, establishes a framework for cooperation to protect the aquatic environment, and prevent and control pollution. It also aims to ensure sustainable use of the water sources of countries through which the Danube flows.

In 1997, Spain sought annulment of the Council Decision to conclude The Convention on behalf of the Community. The Decision was based on the, then, Article 130s(1) of the EC Treaty, but Spain claimed that the correct legal base was Article 130s(2) (these articles were amended to Articles 175(1) and 175(2) respectively, and are both now Article 192 TFEU) since the Decision was concerned with the 'management of water resources'. The distinction is important as legislation adopted under Article 130s(2) had to be agreed by unanimity in the Council. In its ruling ([Case C-36/98](#)), the European Court of Justice held that Article 130s(2) was not intended to cover every measure dealing with the use of water. Rather, it only covered measures concerning the Regulation of the use of water and the management of water in its quantitative aspects. The principal purpose of The Convention was the protection

of the Danube and the improvement in quality of its waters. It was only incidentally that quantitative aspects of management were regulated. It had therefore been correct to base the Decision on Article 130s(1).

## **Convention on the International Commission for the Protection of the Oder (Oder River Protection Convention)**

|  |   |
|--|---|
| Place of signature                     | Wrocław   |
| Date of signature                      | 11.04.1996  |
| Date of entry into force               | 26.04.1999  |
| Secretariat                            | International Commission for the Protection of the Oder against Pollution |
| Website                                | <a href="http://www.mkoo.pl">http://www.mkoo.pl</a>                       |
| Date of Council Decision on conclusion | 29.03.1999  |
| Date of entry into force in EC         | 05.05.1999  |
| Reference of Council Decision          | <a href="#">1999/257/EC</a> (OJ L100 15.04.1999)                          |

The Convention was signed in 1996 by the riparian States of the Oder, the Czech Republic, Poland and Germany, and the Community. It entered into force in 1999. Its main objective is to prevent and control pollution of the river itself and the Baltic Sea, to enable waters of the Oder to be used for human consumption and agricultural purposes, and to achieve 'most natural ecosystems possible'. To this end, parties are to draw up joint action programmes and promote the transfer of pollution prevention technologies.

At the time The Convention was signed, Poland and the Czech Republic were not yet Member States of the EU. Since their accession to the EU, the International Commission for the Protection of the Oder did not lose its significance as a framework for cooperation, since it received the mandate to coordinate the implementation of the Water Framework Directive [2000/60/EC](#) within the international Oder river basin.

## **Convention on the Law of the Non-Navigational Uses of International Watercourses**

|  |   |
|--|---|
| Place of signature                     | New York  |
| Date of signature                      | 21.05.1997  |
| Date of entry into force               | Not yet in force  |
| Secretariat                            | UNEP  |
| Website                                | <a href="http://untreaty.un.org/cod/avl/ha/clnuiw/clnuiw.html">http://untreaty.un.org/cod/avl/ha/clnuiw/clnuiw.html</a> |
| Date of Council Decision on conclusion | None  |

The Convention would require countries to take account of their actions on water resources in their impacts on neighbouring states. This includes the provision of information to other states and, where harm may occur, a commitment to negotiate a settlement and take

reasonable steps to reduce impacts. The relationship between this Convention and the UNECE Water Convention has been explored by Tanzi<sup>1</sup>.

## **Reference**

1 Tanzi, A (2000) The Relationship between the 1992 UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes and the 1997 UN Convention on the Law of the Non Navigational Uses of International Watercourses, UNECE, Geneva. [[link](#)]